

EXHIBIT 24

MARY ELIZABETH REICH
January 4, 2012

1	UNITED STATES DISTRICT COURT	Page 1	Page 3
2	EASTERN DISTRICT OF MICHIGAN		
3	SOUTHERN DIVISION		
4	NATIONWIDE LIFE INSURANCE		
	COMPANY, a foreign corporation,		
5	Plaintiff/		
	Counter-Defendant,		
6	vs. Case No.		
	11-cv-12422-AC-MKM		
7	Hon. Avern Cohn		
8	WILLIAM KEENE, JENNIFER KEENE,		
9	MONICA LYNNE LUPILOFF, NICOLE		
10	RENEE LUPILOFF and NICOLE RENEE		
11	LUPILOFF, PERSONAL REPRESENTATIVE		
12	OF THE ESTATE OF GARY LUPILOFF,		
13	DECEASED,		
14	Defendants,		
15	and		
16	MONICA LYNNE LUPILOFF, NICOLE		
17	RENEE LUPILOFF and NICOLE RENEE		
18	LUPILOFF, PERSONAL REPRESENTATIVE		
19	OF THE ESTATE OF GARY LUPILOFF,		
20	DECEASED,		
21	Defendants/		
22	Counter-Plaintiffs and		
23	Cross-Plaintiffs,		
24	vs.		
25	WILLIAM KEENE, JENNIFER KEENE,		
	Individually, jointly and severally,		
	Defendants/		
	Cross-Defendants.		
20	The Deposition of MARY ELIZABETH (BETSY) REICH,		
21	Taken at 1050 Wilshire Drive, Suite 320,		
22	Troy, Michigan,		
23	Commencing at 3:18 p.m.,		
24	Wednesday, January 4, 2012,		
25	Before Lezlie A. Setchell, CSR-2404, RPR, CRR.		
1	APPEARANCES:	Page 2	Page 4
2			
3	MICHAEL F. SCHMIDT		
4	Harvey Kruse, PC		
5	1050 Wilshire Drive		
6	Suite 320		
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10	Appearing on behalf of the		
11	Plaintiff/Counter-Defendant.		
12			
13	ALBERT L. HOLTZ		
14	Albert L. Holtz, PC		
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20	Appearing on behalf of Monica Lynne Lupiloff, Nicole		
21	Renee Lupiloff and Nicole Renee Lupiloff, personal		
22	representative of the Estate of Gary Lupiloff,		
23	deceased.		
24			
25			

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2 MARY ELIZABETH (BETSY) REICH			
3			
4 EXAMINATION			
5 BY MR. SCHMIDT:	6	1 A. Yes.	
6 EXAMINATION		2 Q. Will you please tell us your name?	
7 BY MR. DANZIG:	24	3 A. Mary Elizabeth Betsy Reich.	
8 EXAMINATION		4 Q. And your current employer?	
9 BY MR. BREDELL:	61	5 A. Huntington Insurance.	
10 RE-EXAMINATION		6 Q. And that's located in what city?	
11 BY MR. DANZIG:	75	7 A. Birmingham.	
12 RE-EXAMINATION		8 Q. And approximately how long have you worked there?	
13 BY MR. BREDELL:	80	9 A. It'll be two years this March 1st.	
14		10 Q. And is that an independent insurance agency?	
15 EXHIBITS		11 A. It is.	
16 EXHIBIT	PAGE	12 Q. Prior to that had you been employed by Nationwide	
17 (Exhibits retained by counsel.)		13 Insurance Company?	
18		14 A. Correct.	
19 DEPOSITION EXHIBIT 1	8	15 Q. And what was your job for Nationwide?	
20 DEPOSITION EXHIBIT 2	9	16 A. I was an agent.	
21 DEPOSITION EXHIBIT 3	12	17 Q. And where was your office?	
22 DEPOSITION EXHIBIT 4	13	18 A. It was in Birmingham, Bloomfield and Birmingham.	
23 DEPOSITION EXHIBIT 5	14	19 Q. Different locations?	
24		20 A. Yes.	
25		21 Q. Now this case pertains to a lawsuit concerning a life	
		22 insurance policy that was issued on the life of Gary	
		23 Lupiloff. Do you recall selling an insurance policy	
		24 to Gary Lupiloff, insuring Gary Lupiloff?	
		25 A. Yes.	
		Page 6	Page 8
1 Troy, Michigan		1 MARKED FOR IDENTIFICATION:	
2 Wednesday, January 4, 2012		2 DEPOSITION EXHIBIT 1	
3 3:18 p.m.		3 3:20 p.m.	
4 MARY ELIZABETH (BETSY) REICH,		4 BY MR. SCHMIDT:	
5 was thereupon called as a witness herein, and after		5 Q. Let me hand you what's been marked as Exhibit 1. Can	
6 having first been duly sworn to testify to the truth,		6 you tell us what that document is? It's titled	
7 the whole truth and nothing but the truth, was		7 something. What's it titled?	
8 examined and testified as follows:		8 A. New Account Suitability Form.	
9		9 Q. And is that a document that you recall using as a	
10 MR. SCHMIDT: Let the record show this is		10 Nationwide agent?	
11 the deposition of Mary Elizabeth Reich taken pursuant		11 A. I don't recall but it's obviously a form of	
12 to Notice under the Federal Rules of Civil Procedure		12 Nationwide's.	
13 to be used for the purposes provided therein.		13 Q. This occurred back in 2003 or so?	
14 EXAMINATION		14 A. I don't recall. I was looking to see if there was a	
15 BY MR. SCHMIDT:		15 date.	
16 Q. Ms. Reich, I'm going to ask you some questions about a		16 MR. BREDELL: You don't have extra copies	
17 lawsuit filed by Nationwide Insurance Company. Please		17 of exhibits?	
18 listen to the question. If you understand it, answer		18 MR. SCHMIDT: No, I don't.	
19 it. If you don't, let me know and I can repeat or		19 MR. BREDELL: I just want to see it.	
20 rephrase it. Is that understandable?		20 MR. SCHMIDT: You guys got all these	
21 A. Yep.		21 things.	
22 Q. And please give a verbal answer to every question so		22 MR. BREDELL: I just wanted to see which	
23 the court reporter can take it down, and try to stay		23 one you're looking at.	
24 away from words like uh-huh, so either say yes, no, or		24 MR. FISHMAN: Here you go.	
25 some other complete answer. Is that understandable?		25 MR. BREDELL: Thank you.	

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<p style="text-align: right;">Page 9</p> <p>1 MARKED FOR IDENTIFICATION: 2 DEPOSITION EXHIBIT 2 3 3:21 p.m. 4 BY MR. SCHMIDT: 5 Q. Then I'll hand you what's marked as Exhibit 2, and can 6 you tell us what that is? 7 A. It says New Account Suitability Form Addendum. 8 Q. Okay. And once again, do you recall that being a 9 Nationwide form that you were familiar with or not? 10 A. I don't recall, but it appears to be a Nationwide 11 form. 12 Q. Is that your handwriting on there? 13 A. It is. 14 Q. And going back to Exhibit Number 1, is anything on 15 that your handwriting? 16 A. Yes. 17 Q. I think there's an attachment to Exhibit 1? 18 A. Yes. 19 Q. The last page, which these have Bates Numbers on them, 20 the last page being Bates Numbered 411, the last page 21 of Exhibit 1. Can you tell us, if you recall, what 22 that document is? 23 A. That would be an attached -- it's a summary sheet 24 describing the purpose of the life insurance policy. 25 Q. Okay. So if you recall from this transaction, was</p>	<p style="text-align: right;">Page 11</p> <p>1 A. Yes. 2 Q. And you have not seen a copy of that lately? 3 A. No. 4 Q. And do you have any recall, would you have obtained 5 that either -- do you remember who you got that 6 document from? 7 A. I do not. 8 MR. DANZIG: Want to identify what the 9 document was? 10 THE WITNESS: I can't other than it was a 11 legal written document. 12 BY MR. SCHMIDT: 13 Q. And your understanding was that was supposed to 14 explain the business deal between Mr. Lupiloff and 15 Mr. Keene? 16 A. Correct, the arrangement for needing life insurance. 17 Q. You don't have any records from your job as a 18 Nationwide agent, do you? 19 A. No. Everything had to be supplied back to them. 20 Q. Okay. So is it your understanding that after 21 Nationwide received this documentation, they said to 22 go ahead and proceed to have an application prepared 23 for this policy? 24 A. This would have gone in with the application. 25 MARKED FOR IDENTIFICATION:</p>
<p style="text-align: right;">Page 10</p> <p>1 this kind of a different kind of a transaction for a 2 life insurance policy than you normally would be 3 involved with? 4 A. Could you rephrase that? I don't -- 5 Q. Well, the fact that you have two people that are 6 apparently unrelated wanting to purchase a life 7 insurance policy, is that something that was normal or 8 different? 9 A. It's not -- I wouldn't say abnormal but it's 10 different. 11 Q. Okay. In those situations did Nationwide require some 12 additional documentation as to what the transaction is 13 about for their underwriting purposes? 14 A. Correct, yes. 15 Q. And is that why the new account suitability forms 16 would be filled out for that situation? 17 A. No. Those would be filled out with every situation. 18 Q. How about that memo that's Page 411; is that something 19 that would be pertaining to that type of a situation? 20 A. It appears that that is something additional that they 21 did ask for, yes. 22 Q. All right. Do you recall whether there was actually 23 some type of a legal type document that you had to 24 obtain from either Mr. Lupiloff or Mr. Keene regarding 25 their transaction to send to Nationwide Underwriting?</p>	<p style="text-align: right;">Page 12</p> <p>1 DEPOSITION EXHIBIT 3 2 3:24 p.m. 3 BY MR. SCHMIDT: 4 Q. Okay. Let me hand you what's marked as Exhibit 3 and 5 ask if you can tell me what that is? 6 A. This would be -- this looks like the application. 7 Q. Okay. And is that signed by Mr. Lupiloff? 8 A. I can see it's all filled out by him, it's his 9 writing, and it is signed by him, yes. 10 Q. You're able to recognize his handwriting? 11 A. Yeah. 12 Q. And what's the date of the application; is it dated? 13 A. It's dated November looks like -- looks like 14 November 11th, 2003. 15 Q. And the type of policy that was being applied for, 16 what was it? 17 A. It was a term policy. 18 Q. A term life policy? 19 A. A term life Insurance policy, yes. 20 Q. And on whose life was it being issued? 21 A. The insured life was Gary Lupiloff, Gary Harmon 22 Lupiloff. 23 Q. And Gary Harmon Lupiloff was a client of yours as an 24 insurance agent? 25 A. Yes.</p>

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<p style="text-align: right;">Page 13</p> <p>1 Q. And you knew him before this transaction? 2 A. Yes. 3 Q. Had you sold him any other insurance before this? 4 A. I don't recall if before this -- I don't recall. 5 Other insurance was sold to him, but I don't recall if it was prior to this.</p> <p style="text-align: center;">MARKED FOR IDENTIFICATION: DEPOSITION EXHIBIT 4 3:26 p.m.</p> <p>10 BY MR. SCHMIDT:</p> <p>11 Q. Now let me show you Exhibit 4, if you can tell me what that is? 13 A. I don't know the front sheet what that is, but this appears to be a copy of the actual policy. 15 Q. And that's the policy issued on the life of Gary Lupiloff? 17 A. That's what it says, correct. 18 Q. Included on that policy, the page as a matter of fact you have it opened to right there, Page 304, does that show the premiums for that policy? 21 A. That does. 22 Q. And it shows his age at the issuance was 46 years old? 23 A. Yes. 24 Q. And it looks like for the first 10 years, the premium was \$1,000 --</p>	<p style="text-align: right;">Page 15</p> <p>1 BY MR. SCHMIDT: 2 Q. Let me hand you what's been marked as Exhibit 5, and when that happened, who approached you, if you recall, was it Mr. Lupiloff or Mr. Keene, about changing the ownership? 6 A. I don't recall who made the first approach. 7 Q. Okay. But you do recall talking to both Mr. Keene and Mr. Lupiloff about that? 9 A. Yes. 10 Q. And in Exhibit Number 5 there, we have several documents. Do you recall which document was first, the change of beneficiary or the change of ownership? 13 A. I don't recall but it would have made sense to be the change of ownership. 15 Q. The change of ownership form is Page 175? 16 A. Yes. 17 Q. And that changes the owner of the policy from Mr. Lupiloff to Mr. Keene? 19 A. Correct. 20 Q. Do you recall discussing that with Mr. Lupiloff before that occurred? 22 A. Yes. 23 Q. And what was your discussion with Mr. Lupiloff about that? 25 A. Just the typical protocol would be to explain what the</p>
<p style="text-align: right;">Page 14</p> <p>1 A. \$1,030. 2 Q. And that was each year for the first 10 years? 3 A. Yes. 4 Q. And after that it goes up? 5 A. It spikes up based on your age. 6 Q. And from then on it spikes up every so often higher and higher. By age 71, how much is that? 8 A. So at age 71, it would have been \$52,915. 9 Q. For a year? 10 A. Correct. 11 Q. And then by 78 it's \$106,480? 12 A. Yep. 13 Q. Now were you aware there came a time when Mr. Lupiloff advised that he wanted to change the beneficiary and the ownership of the policy? 16 A. Can you restate that? 17 Q. Did there come a time when you learned that -- 18 A. It was two questions. 19 Q. Okay, good. Was there a time that came that you learned that Mr. Lupiloff or Mr. Keene wanted to change the ownership of the policy? 22 A. Yes. <p style="text-align: center;">MARKED FOR IDENTIFICATION: DEPOSITION EXHIBIT 5 3:29 p.m.</p> </p>	<p style="text-align: right;">Page 16</p> <p>1 ramifications were of changing ownership. 2 Q. Such as? 3 A. You no longer control the policy. 4 Q. So would you say -- did you give him information advising him not to do it or just telling him what the problems would be if he did do it? 7 A. I don't recall other than to say that I would typically with any client, I would advise against it. 9 Q. And in response to your discussion, did Mr. Lupiloff advise that he still wanted to proceed? 11 A. Correct. 12 Q. And that form, Page 175, that's signed by Mr. Lupiloff? 14 A. Correct. 15 Q. Okay. And then there's another form that's part of the exhibit. It's actually a two-page form, 170 and 171. That's the change of beneficiary? 18 A. Correct. 19 Q. And the beneficiary, the primary beneficiary is William Keene? 21 A. Correct. 22 Q. And the contingent beneficiary is Jennifer Keene? 23 A. Correct. 24 Q. And that document is signed by Mr. Lupiloff? 25 A. Correct.</p>

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<p style="text-align: right;">Page 17</p> <p>1 Q. And it's also signed by you?</p> <p>2 A. Correct.</p> <p>3 Q. And the change of beneficiary, that's dated 4-4-07, the signatures?</p> <p>5 A. 4-4-07.</p> <p>6 Q. And that's the same day that the change of ownership is dated?</p> <p>8 A. Correct.</p> <p>9 Q. So do you recall that all happening at the same time?</p> <p>10 A. I do not.</p> <p>11 Q. And then you would have eventually sent those to Nationwide, correct?</p> <p>13 A. Correct.</p> <p>14 Q. The first page of Exhibit 5, Page 169, is that the fax from you to Nationwide Underwriting?</p> <p>16 A. That's correct.</p> <p>17 MR. DANZIG: Mike, 169 did you say?</p> <p>18 MR. SCHMIDT: Yes.</p> <p>19 MR. DANZIG: Thank you.</p> <p>20 BY MR. SCHMIDT:</p> <p>21 Q. And that's sending them the two different forms?</p> <p>22 A. Correct.</p> <p>23 Q. The change of beneficiary and the change of ownership forms?</p> <p>25 A. It says six pages, so I'm guessing correct.</p>	<p style="text-align: right;">Page 19</p> <p>1 right to you or not?</p> <p>2 A. I don't know.</p> <p>3 Q. You have no idea?</p> <p>4 A. He did that directly, I believe, through Nationwide.</p> <p>5 Q. So you weren't part of that transaction?</p> <p>6 A. Correct.</p> <p>7 MR. DANZIG: Which change are you referring to, Mike?</p> <p>9 MR. SCHMIDT: Change of payor.</p> <p>10 MR. DANZIG: Thank you.</p> <p>11 A. I don't recall being part of that transaction.</p> <p>12 BY MR. SCHMIDT:</p> <p>13 Q. During the course of this policy when it was in force, did you ever get any calls from Mr. Keene asking if the premiums were being paid?</p> <p>16 A. Yes.</p> <p>17 Q. How often would you get those?</p> <p>18 A. About once a month.</p> <p>19 Q. And that's something you would have to check for him?</p> <p>20 A. No. We told him we couldn't advise him of that.</p> <p>21 Q. You would direct him who to call for that?</p> <p>22 A. You know, it would be myself or my staff. I know when I spoke with him, I would say, you know, we could not tell him that.</p> <p>25 Q. Would you tell him who to call?</p>
<p style="text-align: right;">Page 18</p> <p>1 Q. Do you know if sometime -- let me ask you this. Do you know who was paying the premiums on that policy up until that time, if you know?</p> <p>4 A. Two different people.</p> <p>5 Q. Who was paying them?</p> <p>6 A. Mr. Lupilloff was paying and Mr. Keene had paid some. So I'm not sure who paid how much.</p> <p>8 Q. Who would have kept the record as to who was paying that, though?</p> <p>10 A. Nationwide.</p> <p>11 Q. The agent office or Nationwide's office?</p> <p>12 A. Nationwide. The bill is sent directly, you know, to the client, and they send it in or call it in or whatever they do.</p> <p>15 Q. Okay. Did there come a time that you're aware of where the payor of the policy was changed to Mr. Keene on Nationwide's records?</p> <p>18 A. I don't recall when, but I do know that it had changed.</p> <p>20 Q. And it was changed so that Keene was then the person who was paying the premiums?</p> <p>22 A. Correct, but I'm not sure at that point how much was paid.</p> <p>24 Q. According to Nationwide's records, that happened on -- the change was on October 9, '07. Does that sound</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Because he was not the owner of the policy at that time, and if it was -- you know, I think protocol with Nationwide is if it cancelled, I imagine the beneficiary gets notified. I don't even know.</p> <p>5 Q. Okay. Do you know if he called you after he became the owner to see if the premiums were being paid?</p> <p>7 A. I don't recall.</p> <p>8 Q. Did you ever -- let me ask you, did you hear about Mr. Lupilloff being murdered?</p> <p>10 A. Yes.</p> <p>11 Q. And how did you hear that?</p> <p>12 A. I received a call from one of my prior staff who saw it on the news.</p> <p>14 Q. At that time were you still working for Nationwide?</p> <p>15 A. I was not.</p> <p>16 Q. Did you receive a call from Mr. Keene in regard to Mr. Lupilloff being murdered?</p> <p>18 A. Yes.</p> <p>19 Q. When did you get that call?</p> <p>20 A. That same next morning I guess it was.</p> <p>21 Q. And did you speak to Mr. Keene or was it a voicemail?</p> <p>22 A. I received a voicemail, and then I called him back.</p> <p>23 Q. And do you recall what Mr. Keene had to say about whatever?</p> <p>25 MR. HOLTZ: I was just unclear when the</p>

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<p style="text-align: right;">Page 21</p> <p>1 next morning was. Was it the morning after the murder 2 or the morning after the call? 3 BY MR. SCHMIDT: 4 Q. When you say next morning, what -- 5 A. I'm not certain if it was the morning after the murder 6 occurred. I got a call simultaneously that I took 7 first from a staff person telling me that he had just 8 been murdered the night before, so I'm guessing. But 9 again, I don't know what the exact date was. 10 Q. Your best memory is it would have been the day after 11 the murder? 12 A. It was very close if it wasn't the day after. 13 Q. Okay. And do you recall what the message was from 14 Mr. Keene? 15 A. I don't recall the full message. 16 Q. And do you recall what the phone call was about? Did 17 you call him back? 18 A. I called him back. He had left me a message. I 19 called him back. He was essentially letting me know 20 that Gary had been killed, and he wanted to remind me 21 about the life insurance policy and wanted to meet 22 with me to go through the process. 23 Q. And what did you tell him? 24 A. I told him I was no longer the agent on the policy, 25 and I referred him to the new agent who was servicing</p>	<p style="text-align: right;">Page 23</p> <p>1 2010. So would it have been just a month or two 2 later, six months later, or what are we talking about? 3 A. I don't recall how often. There were numerous calls. 4 Q. How many calls approximately were there? 5 A. Oh, gees, I can't recall. 6 Q. More than 10? 7 A. Yes. 8 Q. More than 20? 9 A. I don't recall. 10 Q. Have you had any calls from anyone on behalf of the 11 Lupiloff Family Estate? 12 A. No. 13 Q. Other than the document we discussed a while ago, this 14 legal document that you recall you obtained from 15 Lupiloff or Keene about their transaction, did you 16 ever see any other documents regarding their business 17 transactions other than that document? 18 A. No. 19 Q. And your best memory of the transaction or situation 20 would be that memo that you did as part of Exhibit 1, 21 Page 411; that's your best, a summary of your best 22 memory of what their transaction was? 23 A. Correct. 24 MR. SCHMIDT: Okay. That's all the 25 questions I have. Thank you.</p>
<p style="text-align: right;">Page 22</p> <p>1 my book at that time. 2 Q. And do you recall who the new agent was? 3 A. Yes, Robert Pliskow, P-L-I-S-K-O-W. 4 Q. Did you ever speak to Mr. Pliskow about Mr. Keene 5 calling him up or about the policy? 6 A. Did I what? 7 Q. Did you follow up with Mr. Pliskow at all about that 8 issue? 9 A. I did. I called Mr. Pliskow and let him know he would 10 be receiving a call, and I can't recall, but I believe 11 he said he already heard from him. 12 Q. Did you have any further contact with Mr. Keene after 13 that? 14 A. Yes. 15 Q. What other contact did you have? 16 A. He's called me several times. 17 Q. About what? 18 A. I don't recall entirely. He's called me to inquire 19 about the process and just to fill me in on, you know, 20 his, you know, talking about, you know, what his take 21 on the whole situation is and etcetera, etcetera. 22 Q. And would those calls have been around the time of the 23 murder or after that time? 24 A. Well, obviously after. 25 Q. But how many, like -- okay -- that was July 13 of</p>	<p style="text-align: right;">Page 24</p> <p>1 EXAMINATION 2 BY MR. DANZIG: 3 Q. Ms. Reich, my name is Jeffrey Danzig, I represent the 4 Lupiloff Estate, and I have some questions for you. 5 What I'd like to do is first go over some of the 6 things that have already been discussed and then maybe 7 ask you some new questions. 8 As an agent for Nationwide Insurance 9 Company, I assume there's some routine protocols that 10 you engage in when you bind over a life insurance 11 policy, especially a term life policy, correct; you go 12 through certain routines. 13 A. For insurance policies. 14 Q. All insurance policies? 15 A. Yes. 16 Q. And when there are change requests for those policies, 17 there is certain other protocols that you follow, 18 correct? 19 A. There would be, yes. 20 Q. Is it your experience that when a change of ownership 21 or a change of beneficiary request takes place, that 22 there would be a home office endorsement from the 23 company? 24 A. What do you mean by home office endorsement? 25 Q. They approve it, they endorse it, they sign off on it?</p>

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<p>1 A. Certainly.</p> <p>2 Q. Okay. And should that happen on both the change of 3 ownership as well as the change of beneficiary?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Are you aware after looking at the forms that 6 we've shown you or counsel has shown you today whether 7 or not there was an endorsement from Nationwide on the 8 change of ownership and the change of beneficiary 9 forms?</p> <p>10 A. I don't recall.</p> <p>11 Q. If you look at Exhibit 5, can you tell me whether or 12 not on the change of ownership there's a company 13 endorsement?</p> <p>14 A. These are just the applications, so no.</p> <p>15 Q. There is a location in each form, just look at the 16 change of ownership form for a minute, there's a 17 location for home office only, correct?</p> <p>18 A. Correct.</p> <p>19 Q. That's usually where a signature appears of a company 20 representative endorsing the change, correct?</p> <p>21 MR. SCHMIDT: I object. There's no 22 foundation she knows how that works.</p> <p>23 A. I don't know once I send something in what happens.</p> <p>24 BY MR. DANZIG:</p> <p>25 Q. As an agent for Nationwide, you're not familiar with</p>	Page 25	Page 27
<p>1 how the home office endorses and confirms policy 2 changes; is that what you're saying?</p> <p>3 A. I'm not aware of what steps they take.</p> <p>4 Q. I'm not asking you what steps they take. I'm asking 5 you whether or not they endorse changes in policies 6 that you put through for your clients?</p> <p>7 MR. SCHMIDT: Same objection. I don't 8 think there's any foundation she knows how that works.</p> <p>9 MR. DANZIG: Objection is noted counsel.</p> <p>10 BY MR. DANZIG:</p> <p>11 Q. I'll take your answer.</p> <p>12 A. I would say that because we have to have paperwork 13 signed, that would imply that they would have to make 14 an approval. Otherwise -- that's all I would know.</p> <p>15 Q. Can I see the document, please?</p> <p>16 A. Sure.</p> <p>17 Q. Would you look at the change of beneficiary 18 designation form that was filled out and signed by you 19 and tell me on Bates Number 0171 whether there's an 20 endorsement that appears in the proper location where 21 you would normally expect one on that document?</p> <p>22 MR. SCHMIDT: Same objection. There's no 23 foundation she knows how that works.</p> <p>24 MR. DANZIG: I'm not asking her how it 25 works.</p>	Page 26	Page 28
<p>1 is not part of her job.</p> <p>2 A. I do not know whose signature that is.</p> <p>3 BY MR. DANZIG:</p> <p>4 Q. Okay. Notwithstanding the fact that you don't know 5 whose signature that is, is that the location where 6 there is typically an endorsement by the company?</p> <p>7 MR. SCHMIDT: No foundation.</p> <p>8 BY MR. DANZIG:</p> <p>9 Q. You can answer.</p> <p>10 A. After that paperwork is filled out by me, we do not 11 receive anything back, so I would not see if it was 12 endorsed or not.</p> <p>13 Q. Okay. Notwithstanding the fact whether you get a 14 document back and see whether it's endorsed or not, 15 are you telling me that you're not aware of whether or 16 not Nationwide, the home office endorses changes in 17 policies that you put through?</p> <p>18 A. They have to make approval of changes in policies.</p> <p>19 Q. That's my point, and by approving, you'd normally see 20 someone -- strike that.</p> <p>21 By approving, you would think that someone 22 signs off on it in one way or another?</p> <p>23 A. I don't know how they do that.</p> <p>24 Q. Okay. You would agree with me, would you not, that 25 when looking at the change of beneficiary designation</p>		

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<p style="text-align: right;">Page 29</p> <p>1 and the change of ownership designation, there's a 2 signature of endorsement in the beneficiary change but 3 not one in the ownership change; is that fair? 4 Do you understand my question?</p> <p>5 A. I do.</p> <p>6 Q. Okay, good. I wanted to make sure it was clear. 7 MR. SCHMIDT: No foundation. She doesn't 8 know where it goes or if it's supposed to be there or 9 not. I don't know how she could answer that question.</p> <p>10 BY MR. DANZIG: 11 Q. Would you agree there's a signature of endorsement on 12 the change of beneficiary but not one on the change of 13 ownership?</p> <p>14 A. On these particular forms, you're correct.</p> <p>15 Q. Okay. Does that make sense to you as an agent for 16 Nationwide that there would be an endorsement on one 17 where there's a change of beneficiary request but not 18 one on the change of ownership request?</p> <p>19 MR. SCHMIDT: I'm just going to object. 20 There's no foundation that that's an endorsement. She 21 doesn't even know what that is. You're making her 22 assume something she doesn't know what that is or what 23 that's talking about.</p> <p>24 MR. DANZIG: So your objection is noted. 25 MR. SCHMIDT: I object to the form of the</p>	<p style="text-align: right;">Page 31</p> <p>1 A. I don't recall which office. 2 Q. You were in one of your offices? 3 A. We were in, yeah, in an office. 4 Q. Okay. It could be any office. What I'm wondering is 5 if you were in one of your offices? 6 A. It could have been Gary's office as well. 7 Q. Okay. Where was Gary's office? 8 A. I don't recall at that point which office he was in, 9 if it was Pontiac or -- he had several locations over 10 the years. 11 Q. Let's go back. 12 A. I'm over 50. I'm sorry. 13 Q. It's okay. So am I and I do the same thing. 14 The original application was in 2003 for 15 this term life insurance policy, right? 16 A. Yes. 17 Q. And I think you were asked whether or not you knew 18 Gary Lupiloff before this term life insurance policy 19 was applied for, and I think you said you did? 20 A. Yes. 21 Q. Would it be fair to state that you had binded some 22 insurance for him in the past, maybe some auto 23 insurance? 24 A. I don't recall if it was prior to this or not. 25 Q. But you knew him?</p>
<p style="text-align: right;">Page 30</p> <p>1 question. 2 MR. DANZIG: Good. 3 BY MR. DANZIG: 4 Q. Can you tell me, does it make sense to you? 5 A. I don't think this is a matter of what makes sense or 6 not. I don't know what their process is. 7 Q. You said previously, I think you said it this way, it 8 makes sense that the change of ownership would come 9 first and then a change of beneficiary would come 10 second? 11 A. Or simultaneously. 12 Q. Does it make sense to you that change of ownership 13 might have to take place before you change a 14 beneficiary? 15 A. It doesn't have to. 16 Q. If you're changing ownership, does it make sense that 17 it would go one and then the other? 18 A. It doesn't have to. 19 Q. Okay. In this instance do you believe that it was 20 simultaneous? 21 A. I don't recall. 22 Q. You were present on April 7th of 2007 when these 23 changes were made, right? 24 A. I was. 25 Q. Where were you at the time?</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Oh, yeah. 2 Q. In a business sense? 3 A. Yeah, I knew him because of his business as well. 4 Q. Okay. And would you recall knowing him in relation to 5 your work as an agent for Nationwide having done some 6 business with him in the past? 7 A. Again, I don't know what came first as far as policies 8 with him. 9 Q. Okay. So you're not sure whether or not you bound any 10 previous policies for Gary Lupiloff before 2003? 11 A. I don't remember. 12 Q. Okay. But you think you knew him before 2003? 13 A. Oh, I did know him. 14 Q. And did you like him? 15 A. Yeah. 16 Q. Did you get along with him? 17 A. Sure. 18 Q. It was a cordial, congenial relationship? 19 A. Uh-huh. 20 Q. Yes? 21 A. Yes. 22 Q. Got along with him? 23 A. Yes. 24 Q. Okay. When you had conversations with him, your 25 conversations were smooth and easy?</p>

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<p style="text-align: right;">Page 33</p> <p>1 A. Yes. 2 Q. Meaning you didn't have arguments or fights about 3 differences of opinion? 4 A. No. 5 Q. Okay. And you gave him advice as an agent as one 6 normally would when he needed it? 7 A. Well, again, I don't know what prior to that we had partaken in for insurance. 9 Q. Okay. Now when this transaction came about in 2003, 10 you felt as an agent this was an unusual transaction, 11 it was different? 12 A. Different. It's not unusual because obviously Nationwide had forms to allow it. 14 Q. Okay. But it was different, and tell me how it was 15 different in your mind. 16 A. Different because it's a business transaction, is the basis for the life insurance, and so not two related persons. To me that was different. It's not husband and wife. It's not, you know, parents and children. 20 Q. So the fact that the term policy of life insurance was 21 being bound as a business transaction amongst 22 unrelated persons made it different? 23 A. Yes. 24 Q. Okay. And the company underwriting required 25 additional verification of the nature of their</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. Okay. Do you understand my question? They're making 2 objections, and you can answer if you understand the 3 question. 4 A. Rephrase it. 5 Q. Sure. I started with the underwriting process and 6 wanting verification of the nature of their 7 relationship. Now that years later the policy is 8 intending to change in terms of ownership and 9 beneficiary, would you agree that standard format 10 would be the company would want to also exercise due 11 diligence and make sure this transaction is 12 appropriate? 13 MR. SCHMIDT: Same objection, no foundation 14 she knows how that works. 15 A. I called the underwriter. They provided the forms that needed to be filled out, and I don't know what they do beyond that to make, you know, sure that that's all they need. 19 BY MR. DANZIG: 20 Q. How many years were you an agent for Nationwide? 21 A. For 14 years. 22 Q. And in those 14 years, you never learned about the 23 company's desire for due diligence and due process in 24 -- 25 A. I think that's textbook requirement of life insurance</p>
<p style="text-align: right;">Page 34</p> <p>1 relationship? 2 A. Correct. 3 Q. They wanted some verification before approval, 4 correct? 5 A. That would be my understanding, yes. 6 Q. Because the company, as far as you knew, didn't want 7 to bind the policy until they had assurances that this 8 was on the up-and-up, true? 9 A. They have to show insurable interest. 10 Q. And basically, if you would agree or disagree with me, 11 the company is doing its due diligence as far as 12 whether or not it would be appropriate to bind this 13 policy over between these two individuals? 14 A. That's their job, I guess. 15 Q. You would agree that's what they're doing? 16 A. Underwriter's position. 17 Q. Would you agree with me that if the change of 18 ownership is taking place, the company should likely 19 do its due diligence to determine and verify that this 20 is an appropriate transaction, do you agree? 21 MR. SCHMIDT: No foundation she knows what 22 underwriting does. 23 MR. BREDELL: Or appropriate for who? I 24 guess I object to the form of the question. 25 BY MR. DANZIG:</p>	<p style="text-align: right;">Page 36</p> <p>1 that you should have insurable interest, and they have their own procedures that I'm not -- for underwriting a person's health, for everything. So that's not part of my job. I just provide what they require me to provide. 6 Q. In your 14 years of experience as an agent for 7 Nationwide, did you learn that they like to do things 8 a certain way, and they would require you to do 9 things, certain things in a certain way, or was it 10 just -- 11 A. In my 14 years at Nationwide, the forms, the procedures, the protocol changed several times. So where they were in that particular year could have been different the next year. 15 Q. Okay. Had you ever met Bill Keene in person before 16 the change request was made? 17 A. Yes. 18 Q. In person or on the phone or both? 19 A. In person, on the phone, both. 20 Q. What was the context in which you met him in person? 21 A. He had stopped in my office in the very beginning of the whole process. 23 Q. When you first met him, did you have a cordial 24 relationship with him? 25 A. Yes.</p>

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<p style="text-align: right;">Page 37</p> <p>1 Q. Did you have any difficulties with him in any way?</p> <p>2 A. No, just that he was constantly calling, and we</p> <p>3 weren't allowed to really share with him the</p> <p>4 information.</p> <p>5 Q. Because he wasn't the owner?</p> <p>6 A. Correct.</p> <p>7 Q. And you'd want to share the information with the owner</p> <p>8 as opposed to a beneficiary at that time?</p> <p>9 A. Correct. He would call to ask various questions and</p> <p>10 things that I could not share with him.</p> <p>11 Q. When Gary Lupiloff first applied for the policy, did</p> <p>12 he tell you that one of his interests was in</p> <p>13 protecting his children as contingent beneficiaries?</p> <p>14 A. Yes.</p> <p>15 Q. Was that a significant concern of his in terms of the</p> <p>16 life insurance policy he was binding over?</p> <p>17 A. I don't recall how significant but it was a concern as</p> <p>18 stated in the memo.</p> <p>19 Q. And it stated what in the memo that you're referring</p> <p>20 to? I don't know what memo you're referring to. In</p> <p>21 the document that's right in front of you?</p> <p>22 A. Yes, it was, you know, attached, the initial intent.</p> <p>23 Q. That's the exhibit, the back exhibit to Exhibit 1,</p> <p>24 correct?</p> <p>25 A. Page 0411.</p>	<p style="text-align: right;">Page 39</p> <p>1 dated October 19, 2006. It's on Nationwide</p> <p>2 letterhead, it's Bates 225, and if I can stand over</p> <p>3 you for a moment. I'll let you read it first.</p> <p>4 First of all, it's a letter that's cc'd to</p> <p>5 you as the agent, correct?</p> <p>6 A. Yes, I see that.</p> <p>7 Q. And it's dated October 19th, 2006?</p> <p>8 A. Yep.</p> <p>9 Q. At face value does it appear to be a request or</p> <p>10 response to a request for information about</p> <p>11 beneficiaries on the policy?</p> <p>12 A. Correct.</p> <p>13 Q. Someone, perhaps Mr. Lupiloff or somebody else, is</p> <p>14 making an inquiry about who the beneficiaries are?</p> <p>15 A. Correct, it appears that way.</p> <p>16 Q. Do you recall this document?</p> <p>17 A. No.</p> <p>18 Q. Do you recall receiving the document?</p> <p>19 A. No.</p> <p>20 Q. This is prior to the change request in 2007 of April,</p> <p>21 correct? The change request I'll tell you was in</p> <p>22 April of 2007.</p> <p>23 MR. SCHMIDT: 4-4-07 it's dated.</p> <p>24 A. Oh, I'm sorry, you're right, yep.</p> <p>25 BY MR. DANZIG:</p>
<p style="text-align: right;">Page 38</p> <p>1 Q. Thank you. And it indicates there that it is his</p> <p>2 desire to have his children as the contingent</p> <p>3 beneficiaries, correct?</p> <p>4 A. Uh-huh.</p> <p>5 Q. Yes?</p> <p>6 A. Yes.</p> <p>7 Q. That's also on the application that he made out,</p> <p>8 correct?</p> <p>9 A. That's correct.</p> <p>10 Q. And it's also on the formal application, Exhibit 3,</p> <p>11 where he signed the application in writing where he</p> <p>12 indicated his children were going to be the contingent</p> <p>13 beneficiaries, correct?</p> <p>14 A. Correct.</p> <p>15 Q. Do you recall anything in particular that Gary</p> <p>16 Lupiloff would have said to you about his children and</p> <p>17 his desire to insure their interests?</p> <p>18 A. No.</p> <p>19 Q. Other than the fact that it appears on these documents</p> <p>20 that we've referenced, there is nothing extraneous</p> <p>21 that you recall independently of the documents in that</p> <p>22 regard?</p> <p>23 A. No.</p> <p>24 Q. I want to understand the context -- strike that.</p> <p>25 I want to show you a document. This is</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. So about six months before the change request,</p> <p>2 information is coming to Mr. Lupiloff about who the</p> <p>3 beneficiaries are on this policy, correct?</p> <p>4 A. Right.</p> <p>5 Q. Do you have any recollection of the events surrounding</p> <p>6 this document?</p> <p>7 A. I do not.</p> <p>8 Q. From what you knew of Gary Lupiloff, was he someone</p> <p>9 who might forget who the beneficiaries were of his own</p> <p>10 life insurance policy?</p> <p>11 A. He could have called and we could have looked those</p> <p>12 up.</p> <p>13 Q. Right.</p> <p>14 A. Yeah.</p> <p>15 Q. Does it strike you as unusual that someone is making</p> <p>16 an inquiry about who the beneficiaries are of this</p> <p>17 policy six months before a change request is going to</p> <p>18 be made?</p> <p>19 A. I would guess so.</p> <p>20 Q. When you were approached by Gary Lupiloff -- strike</p> <p>21 that.</p> <p>22 Do you know who first approached you</p> <p>23 regarding a change request?</p> <p>24 A. I do not recall.</p> <p>25 Q. It could have been either/or; you're not sure as you</p>

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<p style="text-align: right;">Page 41</p> <p>1 sit here today who made or initiated the request?</p> <p>2 A. Who made the first request, no.</p> <p>3 Q. It could have been either/or, Mr. Keene or</p> <p>4 Mr. Lupiloff?</p> <p>5 A. Correct.</p> <p>6 Q. You're not sure as you sit here today?</p> <p>7 A. I don't remember who first broached the subject.</p> <p>8 Q. Okay. And wherever this meeting took place, there was</p> <p>9 a meeting on April 4th, 2007, whereby the change</p> <p>10 request for both ownership and beneficiary was placed</p> <p>11 into action by way of forms filed and signed?</p> <p>12 A. Signed.</p> <p>13 Q. And as you sit here today, you simply can't recall</p> <p>14 where that took place?</p> <p>15 A. I don't recall.</p> <p>16 Q. Did you have any private conversations with Gary</p> <p>17 Lupiloff before the change requests were put into</p> <p>18 effect?</p> <p>19 A. Define "private".</p> <p>20 Q. Did you have a conversation in any location where</p> <p>21 Mr. Keene wasn't present where you were advising</p> <p>22 Mr. Lupiloff of what the effect of the change would</p> <p>23 be?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Do you recall Mr. Keene being separate and</p>	<p style="text-align: right;">Page 43</p> <p>1 Mr. Keene?</p> <p>2 A. I don't remember.</p> <p>3 Q. Do you recall speaking with Mr. Lupiloff on the phone</p> <p>4 before your meeting of April 4th, 2007?</p> <p>5 A. Certainly.</p> <p>6 Q. Do you recall him expressing to you his desire to</p> <p>7 retain his kids as contingent beneficiaries?</p> <p>8 A. I don't recall that.</p> <p>9 Q. Do you recall Mr. Lupiloff telling you that he had</p> <p>10 some concerns with regards to any change request that</p> <p>11 was going to be made?</p> <p>12 A. He had no concerns regarding the change.</p> <p>13 Q. Okay. He never expressed to you any concerns over the</p> <p>14 effectuation of the change of ownership or</p> <p>15 beneficiary?</p> <p>16 A. No.</p> <p>17 Q. What concerns did you have, if any, because you</p> <p>18 indicated previously that --</p> <p>19 A. Just simply that you would lose control over the</p> <p>20 policy, as well as who the beneficiaries could be.</p> <p>21 Q. Is that all you said to him?</p> <p>22 A. Yes.</p> <p>23 Q. Did you tell him specifically that his kids would lose</p> <p>24 out as contingent beneficiaries if he made this</p> <p>25 change?</p>
<p style="text-align: right;">Page 42</p> <p>1 apart from that conversation?</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall where that took place?</p> <p>4 A. There were several conversations. I don't recall</p> <p>5 where they took place.</p> <p>6 Q. Were any of those conversations before the meeting of</p> <p>7 April 4th, 2007?</p> <p>8 A. Yes.</p> <p>9 Q. So is it then fair to state that you were apprised of</p> <p>10 a change request before the actual date of April 4th,</p> <p>11 2007?</p> <p>12 A. Oh, yes.</p> <p>13 Q. And how long had you known that that was going to take</p> <p>14 place?</p> <p>15 A. I don't recall.</p> <p>16 Q. A month, six months, a year?</p> <p>17 A. I don't recall.</p> <p>18 Q. Okay. Do you have a belief that it was longer than a</p> <p>19 month, if you know?</p> <p>20 A. I don't recall.</p> <p>21 Q. Okay.</p> <p>22 A. It could have been, it could not have been. I don't</p> <p>23 really recall.</p> <p>24 Q. Okay. Do you have an understanding as to who made the</p> <p>25 first request to you, whether it was Mr. Lupiloff or</p>	<p style="text-align: right;">Page 44</p> <p>1 A. I don't know how specific. I don't recall the exact</p> <p>2 words.</p> <p>3 Q. Did it appear to you at any time in any of these</p> <p>4 conversations over the phone or in person that</p> <p>5 Mr. Lupiloff was being compelled to make these</p> <p>6 changes?</p> <p>7 A. What do you mean compelled?</p> <p>8 Q. Forced, coerced?</p> <p>9 A. No, not to my knowledge, no.</p> <p>10 Q. Okay. No such indications were made or expressed to</p> <p>11 you by Mr. Lupiloff?</p> <p>12 A. No.</p> <p>13 Q. Were both Mr. Keene and Mr. Lupiloff together in some</p> <p>14 environment that you don't recall on April 4th, 2007?</p> <p>15 A. No.</p> <p>16 Q. They were both not present on that date?</p> <p>17 A. They were both present separately on that date.</p> <p>18 Q. Okay. What do you mean separately? I'm not sure I</p> <p>19 understand what that means.</p> <p>20 A. They were not in the room together. I did not meet</p> <p>21 with them each at the same time.</p> <p>22 Q. Okay. Were they in the same office environment, or</p> <p>23 was somebody on the phone and someone physically</p> <p>24 present?</p> <p>25 A. They were both eventually physically present.</p>

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<p style="text-align: right;">Page 45</p> <p>1 Q. When you say eventually, does that mean one was there 2 before the other?</p> <p>3 A. Correct.</p> <p>4 Q. Who was there first?</p> <p>5 A. But I don't even recall where the signatures took 6 place for Gary. I don't remember if we did that at 7 his office because we met several times or if it was 8 in my office. I don't recall that.</p> <p>9 Q. Do you recall being --</p> <p>10 A. But he was present.</p> <p>11 Q. Gary Lupiloff?</p> <p>12 A. Yes. It's protocol to have the person sign in front 13 of me, yes.</p> <p>14 Q. Do you know for a fact that that took place?</p> <p>15 A. Yes.</p> <p>16 Q. That Gary Lupiloff signed this document?</p> <p>17 A. Yes.</p> <p>18 Q. The change request for ownership and beneficiary?</p> <p>19 A. Yes.</p> <p>20 Q. Can I have Exhibit 5, please. Did you witness both the change of ownership and the change of beneficiary?</p> <p>21 A. Signatures, yes.</p> <p>22 Q. Here is the change of beneficiary, and that appears to have your signature on it, correct?</p>	<p style="text-align: right;">Page 47</p> <p>1 A. Yes.</p> <p>2 Q. Show me again.</p> <p>3 MR. FISHMAN: Do you want to see it?</p> <p>4 MR. DANZIG: Please.</p> <p>5 BY MR. DANZIG:</p> <p>6 Q. And can you tell me what you understand to be the 7 requirement of the change of beneficiary designation 8 form regarding an attestation of a witness?</p> <p>9 A. It's my understanding that a person can change the 10 beneficiary if they're the owner of the policy. These 11 forms all came together at one time from Nationwide's 12 Service Center, and they were required to be all 13 filled out at one time.</p> <p>14 Q. You can't change a beneficiary designation if you're not the owner, right?</p> <p>15 A. Correct.</p> <p>16 Q. And so would it not make sense to you that if you want to change the owner in order to change the beneficiary, there should be a witness for that as well?</p> <p>17 A. It may make sense but it's not required.</p> <p>18 Q. Okay. Is it required that Nationwide approve of both of the change of ownership forms --</p> <p>19 A. Of course.</p> <p>20 MR. SCHMIDT: Objection, she doesn't know</p>
<p style="text-align: right;">Page 46</p> <p>1 A. Yes.</p> <p>2 Q. Flip two pages over and you'll see the change of 3 ownership form. Where is your signature there?</p> <p>4 A. I'm not saying I signed it. I witnessed his 5 signature.</p> <p>6 Q. Where did you witness it?</p> <p>7 A. Wherever it was we were located that he signed it. 8 Oh, you're saying in a literal sense. I'm sorry. I 9 was thinking you meant did I see it.</p> <p>10 Q. No. I meant did you see it and sign it?</p> <p>11 A. I misunderstood. I'm sorry. I'm not an attorney.</p> <p>12 Q. I'm not expecting that. Listen to my question because 13 I'm looking for a clear answer.</p> <p>14 You executed a signature as a witness to 15 the change of beneficiary form on April 4th, 2007, 16 attesting to Gary Lupiloff's signature, correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Did you execute a signature on the change of ownership 19 form reflecting your attestation as a witness to his 20 signature on April 4th, 2007, to that document?</p> <p>21 A. No, it's not required.</p> <p>22 Q. Why not?</p> <p>23 A. It's not on the form for me to do that.</p> <p>24 Q. Is it on the form of a change of beneficiary for you 25 to do that?</p>	<p style="text-align: right;">Page 48</p> <p>1 what their approval is.</p> <p>2 A. The process of having a form would imply that there's 3 an approval.</p> <p>4 BY MR. DANZIG:</p> <p>5 Q. Do you know of your own knowledge whether or not 6 Nationwide approved of the change of ownership form 7 changing the owner from Gary Lupiloff to William 8 Keene; do you know that that took place as you sit 9 here today?</p> <p>10 A. I don't recall other than paperwork on the screens 11 coming over, it would have, I guess, changed over.</p> <p>12 Q. Well, I assume that you submitted it in the proper 13 fashion. Did you get anything back approving it that 14 you can recall?</p> <p>15 A. I don't recall that we would get anything back, 16 perhaps a letter. I don't recall.</p> <p>17 Q. As you sit here today, you're not aware of any 18 approval by Nationwide confirming the change of 19 ownership by a company representative; is that fair?</p> <p>20 A. I don't recall.</p> <p>21 Q. You don't recall receiving it?</p> <p>22 A. Correct.</p> <p>23 Q. When Gary Lupiloff signed the change of beneficiary 24 designation, he was in your physical presence?</p> <p>25 A. He was.</p>

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<p style="text-align: right;">Page 49</p> <p>1 Q. Was Mr. Keene present at that time, if you recall?</p> <p>2 A. Not at the same time but he was present when he did</p> <p>3 his signature.</p> <p>4 Q. Okay. Was Mr. Keene in another room when Mr. Lupiloff</p> <p>5 signed?</p> <p>6 A. No.</p> <p>7 Q. So when you say he wasn't physically present, I'm</p> <p>8 having trouble understanding what that means.</p> <p>9 A. They both signed on the same day but not at the same</p> <p>10 time.</p> <p>11 Q. Well, Mr. Keene wouldn't have signed anything</p> <p>12 regarding the change of beneficiary designation</p> <p>13 because there is no signature of his on this document,</p> <p>14 correct?</p> <p>15 A. Not if it's not required.</p> <p>16 Q. So my question is: Was he physically present at the</p> <p>17 time that Lupiloff signed the change of beneficiary</p> <p>18 form?</p> <p>19 MR. FISHMAN: Asked and answered. I think</p> <p>20 she keeps telling you that they signed on the same day</p> <p>21 but not the same room.</p> <p>22 MR. BREDELL: A different time of day?</p> <p>23 MR. DANZIG: Well, that's what I'm trying</p> <p>24 to figure out. You guys can keep testifying, but I'd</p> <p>25 like her to tell me what happened.</p>	<p style="text-align: right;">Page 51</p> <p>1 A. I guess.</p> <p>2 Q. That would be the procedure that you followed?</p> <p>3 A. I don't recall what came first.</p> <p>4 Q. The chicken or the egg?</p> <p>5 A. You know, I just know that they were signed by Gary.</p> <p>6 Q. Okay. Excuse me for asking this question because it</p> <p>7 may seem absurd to you based upon your previous</p> <p>8 answers, but where was Keene when Lupiloff signed that</p> <p>9 document in front of you?</p> <p>10 A. I don't know. He was not present.</p> <p>11 Q. He was in the office somewhere?</p> <p>12 A. No.</p> <p>13 Q. He wasn't physically present at that time?</p> <p>14 A. No. He came into the office, to my office-office at a</p> <p>15 separate time.</p> <p>16 Q. That day or some other day?</p> <p>17 A. That day.</p> <p>18 Q. For what purpose?</p> <p>19 A. All I know is that he was interested in knowing if the</p> <p>20 paperwork was done.</p> <p>21 Q. He was anxious to hear that Mr. Lupiloff had signed</p> <p>22 over the ownership and beneficiary designations to</p> <p>23 him, right?</p> <p>24 A. Yes.</p> <p>25 Q. And thereafter he continued to be very anxious about</p>
<p style="text-align: right;">Page 50</p> <p>1 MR. BREDELL: She's told you four times.</p> <p>2 MR. DANZIG: No, she hasn't.</p> <p>3 MR. FISHMAN: Yeah, she has.</p> <p>4 MR. DANZIG: She doesn't recall exactly</p> <p>5 where they were.</p> <p>6 THE WITNESS: Well, I know for a fact they</p> <p>7 were not present in the same room at the same time. I</p> <p>8 can tell you that.</p> <p>9 BY MR. DANZIG:</p> <p>10 Q. Okay. Now --</p> <p>11 A. They weren't even in the same vicinity to my</p> <p>12 knowledge.</p> <p>13 Q. Flip over to the first page of that document, of the</p> <p>14 change of beneficiary form. Was that filled out</p> <p>15 before Lupiloff signed on Page 2?</p> <p>16 A. Yep.</p> <p>17 Q. Who filled it out?</p> <p>18 A. I filled it out.</p> <p>19 Q. That's your writing there?</p> <p>20 A. That's my writing.</p> <p>21 Q. Okay. You recognize it as your own?</p> <p>22 A. Yep.</p> <p>23 Q. Okay. So you would have filled out that form and then</p> <p>24 had Gary Lupiloff sign the second page, and then you</p> <p>25 would have witnessed it after he signed?</p>	<p style="text-align: right;">Page 52</p> <p>1 the nature of his position in relation to this policy,</p> <p>2 correct?</p> <p>3 A. I don't recall hearing from him much after all of this</p> <p>4 transpired.</p> <p>5 Q. Other than the phone calls you got repeatedly after my</p> <p>6 client died?</p> <p>7 A. Correct.</p> <p>8 Q. Did you formulate any thoughts of your own about what</p> <p>9 was going on at that time considering the timing and</p> <p>10 repetition of the calls?</p> <p>11 A. At what time?</p> <p>12 Q. After my client died and the next day or so you</p> <p>13 started getting calls from Keene, did you formulate</p> <p>14 any thoughts or opinions in that regard about what was</p> <p>15 going on?</p> <p>16 A. I mean, it concerned me.</p> <p>17 Q. Why?</p> <p>18 A. Because I thought it was odd that he would be calling</p> <p>19 right away. He asked if I remembered who he was, and</p> <p>20 of course I did, you know, because of all that we had,</p> <p>21 you know, initially gone through and hearing about</p> <p>22 Gary passing away. Yes, of course, you know, his name</p> <p>23 was familiar to me.</p> <p>24 Q. Wasn't he calling you before the death to make sure</p> <p>25 the premiums were being paid as well? I think you</p>

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<p>1 testified to that.</p> <p>2 A. I think at that time he was already paying the premiums, so I don't recall him calling me.</p> <p>3 Q. You testified that you received calls from Keene regularly wanting to know if the premiums were being paid?</p> <p>7 A. Pre this all transpiring.</p> <p>8 Q. Right. And so he was very concerned about whether or not these premiums were being kept up by Mr. Lupiloff at the time Lupiloff was paying the premiums?</p> <p>11 A. Correct.</p> <p>12 Q. And then immediately after his death, he wants the policy paid off to his name, correct?</p> <p>14 A. Well, he wanted to know what the process was.</p> <p>15 Q. Right, and he's calling you repeatedly even after you tell him you're not the agent any longer?</p> <p>17 A. Correct.</p> <p>18 Q. He's rather anxious to get the premium -- I'm sorry -- the policy benefits paid out to him, was he not?</p> <p>20 A. The subsequent conversations, you know, he knew -- obviously he was trying to, I think, tell me his side of the story and that he wasn't involved and that people were investigating him and things like that.</p> <p>24 Q. Would you agree --</p> <p>25 A. It got off of the life insurance, you know,</p>	<p>Page 53</p> <p>1 A. Correct.</p> <p>2 Q. Otherwise, you're paying out good money for bad, right?</p> <p>4 A. Correct.</p> <p>5 Q. So it makes sense that unless the person dies within the first 10 years, this policy makes no sense to carry, right, if you're the owner paying on the premiums?</p> <p>9 A. I've only seen one situation where someone was terminally ill, so they continued to pay the premiums.</p> <p>10 Q. Other than that, after the 10-year term is up, people shed these policies?</p> <p>13 A. Correct.</p> <p>14 Q. They don't carry them or pay them any longer?</p> <p>15 A. Correct.</p> <p>16 Q. As a habit and routine, that's what happens?</p> <p>17 A. Correct.</p> <p>18 Q. And so when Mr. Lupiloff turns up dead in 2010 shortly before the expiration of the 10-year period, did something come to your mind as to what might have happened?</p> <p>22 A. I didn't make, you know -- obviously my first reaction was to be upset and mortified that he had been killed.</p> <p>24 Q. Sure, because you knew him?</p> <p>25 A. Right.</p>
<p>1 conversation.</p> <p>2 Q. When you bound the policy and then when the change took place, did it strike you that once Keene took over the premiums and started paying the premiums, that after a certain point of time, there would be a cost benefit that would be more of a cost than a benefit if this term lasted a certain number of years; do you understand what I'm saying?</p> <p>9 A. No.</p> <p>10 Q. If you look at the schedule of payments, after year 10, the policy premiums escalate exponentially?</p> <p>12 A. Sure, that's why it's a 10-year term policy.</p> <p>13 Q. Right. And after a certain point in time, it would make no sense to carry this policy economically, would it?</p> <p>16 A. Correct.</p> <p>17 Q. Because at a certain point in time, you're going to be paying beyond the policy benefit?</p> <p>19 A. Most people do not pay for it beyond that time.</p> <p>20 Q. And at a certain point of time, the rate of return would be detrimental to continue this policy, correct?</p> <p>22 A. Correct.</p> <p>23 Q. And unless the person dies at a certain earlier period of time than later, it would make no sense to carry this policy beyond the 10-year term, correct?</p>	<p>Page 54</p> <p>1 Q. And you did business with him?</p> <p>2 A. Right.</p> <p>3 Q. And then when you pieced some of the evidence together in your own mind, the fact that there was a change of policy ownership and beneficiary, the fact that his kids were removed from the policy --</p> <p>7 Hold on, let me finish --</p> <p>8 MR. FISHMAN: Who's testifying now?</p> <p>9 MR. DANZIG: I'm asking a question, counsel.</p> <p>11 BY MR. DANZIG:</p> <p>12 Q. The fact that he was calling and wondering about whether the premiums were being paid, the fact that he called repeatedly immediately after the death, didn't those things strike you as why this death occurred when it did?</p> <p>17 A. I didn't make the connection to the timing. I was concerned that he was calling and asking about the life insurance. Certainly one would make that connection.</p> <p>21 Q. Did you at any time make that connection and think that Mr. Keene killed Mr. Lupiloff?</p> <p>23 A. I don't know who, you know, would have killed him. Would I --</p> <p>25 Q. I'm not asking you if you know who killed him. I</p>

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<p style="text-align: right;">Page 57</p> <p>1 asked you whether that thought crossed your mind when 2 you pieced together some of the evidence that we've 3 gone over? 4 MR. FISHMAN: Can we go off the record. 5 MR. DANZIG: Sure. 6 (Off the record at 4:17 p.m.) 7 (Back on the record at 4:19 p.m.) 8 MR. DANZIG: Counsel, are you advising your 9 client after that off-the-record discussion amongst 10 counsel that you are instructing your client not to 11 answer the question? 12 MR. FISHMAN: That's correct. 13 MR. DANZIG: So you will not allow her to 14 testify as to her mindset after the fact? 15 MR. FISHMAN: Correct. 16 MR. DANZIG: Thank you. 17 BY MR. DANZIG: 18 Q. You indicated that you filled out the change of 19 beneficiary form. Did you fill out the change of 20 ownership form as well; is that your writing as well? 21 A. Yes. 22 Q. That's your writing as well? 23 A. Yes. 24 Q. So as best as you recall, you would have filled out 25 both forms in conjunction with signatures of others;</p>	<p style="text-align: right;">Page 59</p> <p>1 or another. 2 Q. Did you think he was a straight-up individual? 3 A. I didn't have any feelings about it one way or the 4 other. At the time he was just a client to, you know, 5 the policy. 6 Q. Did you ever ask Mr. Lupiloff why he was making the 7 change in 2007, Why are you doing this? 8 A. Sure. 9 Q. What did he say? 10 A. He no longer wanted to pay the premiums. 11 Q. Any other reasons given? 12 A. And I explained to him that just having Mr. Keene pay 13 the premiums as a payor was enough, and he said he 14 didn't care. 15 Q. Anything else that you recall? 16 A. No. 17 Q. Do you recall him stating anything about his kids and 18 their relationship as contingent beneficiaries? 19 A. No, not any further than the initial concern that he 20 wanted them to be. 21 Q. Were you of the understanding that he knew that 22 Mrs. Keene was going to replace his kids as contingent 23 beneficiary? 24 A. He knew the beneficiaries were going to be changed, 25 yes.</p>
<p style="text-align: right;">Page 58</p> <p>1 in other words, other people signed, you filled out 2 the forms? 3 A. Right. 4 Q. Did you ever form any opinions in your mind as to the 5 nature of the relationship between Keene and Lupiloff 6 other than what you saw on paper, and I'm referring to 7 that original document attached to Exhibit 1? 8 A. I was just aware that Mr. Keene had been an investor 9 in Gary's business. He had loaned him money. That's 10 all I knew. 11 Q. What I'm wondering -- I'm sorry -- go ahead. 12 A. I did not know of any other -- I don't know how they 13 knew each other. I don't know anything else about 14 their relationship. 15 Q. Did you ever have a chance to see them together and 16 talking together as business people sometimes do? 17 A. No. 18 Q. You never had them in the same room where you can 19 assess the nature of their relationship? 20 A. I don't recall. Maybe initially at the very beginning 21 but I don't recall. 22 Q. And you don't have any recollections of that at all? 23 A. No. 24 Q. Did you like Keene as an individual? 25 A. I don't have any -- I didn't have any feelings one way</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. Because of the change of ownership? 2 A. Yes, and that's why I was advising him, you know, Why 3 are you doing this? You know, I didn't feel it was 4 necessary. 5 Q. And obviously you didn't know or were privy to any 6 conversations before he came in the office to execute 7 the documents, correct? 8 A. Correct. 9 Q. Ms. Reich, did you have anything other than a 10 professional relationship with Mr. Lupiloff? 11 A. Professional and he was a friend, and he was involved 12 in a charity with us. 13 Q. He was involved in a charity that you were involved 14 with? 15 A. Yes, he donated his time and his screens to running 16 their PSAs. 17 Q. What was the charity? 18 A. Childhelp, one word. 19 Q. Did you ever go out socially with Mr. Lupiloff? 20 A. No. Because I knew other friends, his ex-wife and 21 people indirectly, you know, he would have a birthday 22 party and a whole group of us would show up perhaps 23 but that was it. 24 Q. So you attended social gatherings in his presence but 25 not on a one-on-one basis?</p>

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<p style="text-align: right;">Page 61</p> <p>1 A. Correct. 2 Q. Charitable and social? 3 A. Correct. 4 MR. DANZIG: Thank you. I have nothing 5 further. 6 EXAMINATION 7 BY MR. BREDELL: 8 Q. Is it Reich or Reish? 9 A. Reich. 10 Q. Is Betsy okay? 11 A. Yes. 12 Q. Better than ma'am? 13 A. Thank you. 14 Q. You said you were over 50. I'm over 50, too. 15 So, Betsy, I just want to sort of 16 generalize this if I can. So you had known 17 Mr. Lupiloff it sounds like socially and he knew you 18 sold insurance, so that's how he came to you? 19 A. Correct. 20 Q. Many of us buy insurance out of a phone book, on the 21 internet, and other of us have insurance agents that 22 we know and trust, and your relationship with Gary 23 would be more in the form where he was someone that 24 you knew, you knew him and presumably he trusted you 25 and your advice?</p>	<p style="text-align: right;">Page 63</p> <p>1 him before and you're adamant as his social 2 acquaintance and his agent that you not only advised 3 him of the consequences, you recommended him 4 professionally not to sign it, and he ignored your 5 advice, said he didn't care, and signed it in front of 6 you; is that a fair statement? 7 A. Correct. 8 Q. And this talk about the beneficiaries being his 9 children, in reality, the policy is to benefit 10 Mr. Keene and the only way his children would stand to 11 gain would be if both Mr. Keene and Mr. Lupiloff died? 12 A. No. The letter stated, the memo, that as the loan was 13 paid down, it would pay off whatever loan was 14 outstanding, and the balance should go to the 15 children. 16 Q. Oh, okay. That was in the policy? 17 MR. SCHMIDT: It's in the letter, 18 Mr. Bredell, last page of Exhibit 1. 19 A. It wasn't reducing the policy, but you would expect as 20 the loan gets paid down, less is owed on it. 21 BY MR. BREDELL: 22 Q. But one of the first things that you did, I take it, 23 is you through Nationwide established that Mr. Keene 24 had insurable interest in this policy? 25 A. It's not my job to establish that. It's Nationwide's</p>
<p style="text-align: right;">Page 62</p> <p>1 A. I assume so. 2 Q. And having that prior relationship, you know, you kind 3 of joked earlier, you said you didn't remember some of 4 the details, you referenced your age, but in reality 5 as professionals, when we have a document put in front 6 of us, we've met with thousands of people, it's hard 7 to remember much about it, but it's a little easier 8 for you in this case because you remember 9 Mr. Lupiloff? 10 A. I remember Mr. Lupiloff and I remember Mr. Keene, yes. 11 Q. But I guess what I'm saying is unlike many of your 12 clients, you had a relationship outside of just 13 writing the policy; you knew him socially? 14 A. Many of my clients I did. 15 Q. Okay. And I'm pretty confident the reason why you're 16 here is because there's an allegation that those 17 change of beneficiaries were forgeries; in fact, that 18 was stated in court. And all these other questions -- 19 I mean, that's really why you're here. 20 A. Okay. 21 Q. And what you knew about the form or who signed it and 22 where you were, I can tell you the reason why you're 23 here is because of that allegation. It sounds that 24 you're adamant that you knew who Mr. Lupiloff was, you 25 recognized him, it couldn't be an imposter, you knew</p>	<p style="text-align: right;">Page 64</p> <p>1 job. 2 Q. But that was something you specifically looked into, 3 and you had both of them fill out -- you had 4 Mr. Lupiloff fill out forms to establish an insurable 5 interest? 6 A. You know, I don't recall what all, but yes, it's part 7 of protocol of having insurable interest. 8 Q. Okay. And clearly looking at these forms, you 9 understood there was a loan, you understood they 10 weren't related, you understood the business nature of 11 that information provided to Nationwide, and evidently 12 someone at Nationwide made the assumption that 13 Mr. Keene did have an insurable interest when they 14 issued this policy? 15 A. Nationwide makes that decision. 16 Q. So when a client -- when an insured doesn't pay their 17 premiums, are you given notice? 18 A. Not always right away. Eventually, you know, 19 depending on -- again, we changed computer systems. 20 We changed processes all throughout the time period. 21 So that form could have come in many different ways, 22 so I don't recall how. 23 Q. Here's the information that I received, and obviously 24 this is all after the fact, and you would have gotten 25 the information as it occurred. The information that</p>

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<p style="text-align: right;">Page 65</p> <p>1 I received was that Mr. Lupiloff took out this policy 2 for this business purpose after Mr. Keene loaned 3 Mr. Lupiloff money. Mr. Keene couldn't get any 4 information about the policy because he wasn't a named 5 insured?</p> <p>6 A. He wasn't the owner.</p> <p>7 Q. Thank you, he wasn't the owner, and so I also 8 understood that there was times when Mr. Lupiloff 9 wasn't making the premium payments. I'm wondering 10 when you became aware of that, that Mr. Lupiloff was 11 late on some of the premium payments?</p> <p>12 A. Late, yes.</p> <p>13 Q. Do you know whether he skipped any?</p> <p>14 A. I don't recall.</p> <p>15 Q. And here's what I've been led to believe, and I just 16 -- and there's really no way you'd know that unless 17 you had some independent information. I was trying to 18 see whether you can rule it in or rule it out. I 19 understood that, you know, Mr. Keene loaned this 20 money, he was trying to secure this debt with the 21 policy. Then I understand Mr. Keene found out that on 22 several occasions Mr. Lupiloff wasn't making the 23 payments, and that's why Mr. Keene was calling you to 24 find out, to get some kind of guarantee that the 25 payments were being made, and eventually Mr. Keene and</p>	<p style="text-align: right;">Page 67</p> <p>1 company policy is the beneficiary or any stranger to 2 the policy, nonowner, can't be told?</p> <p>3 A. Should not be told.</p> <p>4 Q. Should not be told. And so does it seem logical to 5 you that the goal here by Mr. Keene was to make sure 6 that he was going to make the payments, that he could 7 be insured that he would stay the owner of the policy?</p> <p>8 A. But I think you could just become a payor, also.</p> <p>9 Q. Right, but if you're the payor, the owner could change 10 the beneficiary; isn't that true?</p> <p>11 A. Correct.</p> <p>12 Q. And so what could happen is if Bill Keene had 13 continued to pay the policy, there would be nothing to 14 prevent Mr. Lupiloff from removing Bill Keene as the 15 beneficiary; isn't that true?</p> <p>16 A. If Mr. Lupiloff was the owner?</p> <p>17 Q. Right.</p> <p>18 A. I would imagine.</p> <p>19 Q. And my understanding is before these change orders 20 took place, that Mr. Lupiloff was making the payments 21 and then -- in the records -- it's not a trick 22 question. I'm not trying to test your memory. I 23 guess I am trying to test your memory. The reason why 24 --</p> <p>25 A. I think it was a combination of people making payments</p>
<p style="text-align: right;">Page 66</p> <p>1 Mr. Lupiloff had a conversation saying, Well, listen, 2 Bill, why don't you just take over the policy, you 3 make the payments, and stop nagging me to make the 4 payments because I don't want to make the payments. 5 Does that sound like a version of what you heard about 6 this change of beneficiary?</p> <p>7 A. I don't know what the entire conversation was.</p> <p>8 Q. But did you hear any version of that? By that I mean, 9 did you hear that, A, I think you told me that 10 Mr. Lupiloff didn't want to make the payments; he told 11 you that?</p> <p>12 A. He was not excited about making the payments. I 13 remember that. But I don't, you know -- do I recall 14 him saying, I'm not making the payments, no, I don't 15 recall that.</p> <p>16 Q. And do you know whether the policy ever was in 17 jeopardy of being cancelled?</p> <p>18 A. I don't recall.</p> <p>19 Q. And is it true that if someone's a beneficiary of an 20 insurance policy with Nationwide at that time, that if 21 a policy is being cancelled or changed, that the 22 beneficiary isn't told?</p> <p>23 A. I don't recall.</p> <p>24 Q. But certainly if the beneficiary or anybody else calls 25 up and wants to know the status of a policy, the</p>	<p style="text-align: right;">Page 68</p> <p>1 at that point.</p> <p>2 Q. The reason for my question was we have some different 3 billing statements and early on ones that are being 4 sent to Gary Lupiloff's address and then later on 5 they're being sent to Bill Keene's address?</p> <p>6 A. I think he had requested to become the payor. I don't 7 recall exactly but that was not done through me.</p> <p>8 Q. I understand, I understand. But as far as you know, 9 if he just -- if Mr. Keene had just become the payor, 10 there would be nothing to prevent Mr. Lupiloff from 11 removing Bill Keene as beneficiary and making Bill 12 Keene's daughter's primary -- I'm sorry -- 13 Mr. Lupiloff's daughter as primary beneficiary on the 14 policy?</p> <p>15 MR. SCHMIDT: I object to the form of the 16 question. She doesn't have the foundation to know 17 whether that can be done or not.</p> <p>18 A. It comes down to, you know, whatever request goes in, 19 it goes in to be approved by Underwriters, I would 20 guess, or Service Center.</p> <p>21 BY MR. BREDELL:</p> <p>22 Q. In this case, Mr. Keene was advised and he signed the 23 forms because he became the owner, right, of the 24 policy?</p> <p>25 A. I was trying to hear your -- say that again.</p>

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<p style="text-align: right;">Page 69</p> <p>1 Q. I'm going to ask you a little different question. If 2 Mr. Lupiloff simply wanted to make a change of 3 beneficiary, you wouldn't have to have the beneficiary 4 come in, right; you can just do that with a form and 5 you can send it off to the home office?</p> <p>6 A. Correct.</p> <p>7 Q. And so for these people who get mad at one kid or the 8 other and they threaten to take them out of the will 9 and they change the policy, you never have to tell the 10 kid you did that, you forgive the kid when you sober 11 up, you can undo it and the kid never finds out, 12 right?</p> <p>13 A. Technically, yes.</p> <p>14 Q. You don't have to bring the kid in each time and say, 15 Okay, I'm cutting you out, I'm cutting you in; it's up 16 to the owner's discretion?</p> <p>17 A. Correct --</p> <p>18 Q. And so even though --</p> <p>19 A. -- to make the request.</p> <p>20 Q. To make the request. And so even though you said that 21 Mr. Lupiloff could have simply had Mr. Keene pay the 22 premium, you were speaking as Mr. Keene's (sic) friend 23 and insurance agent in giving that advice, not as 24 Mr. Keene's insurance agent?</p> <p>25 MR. SCHMIDT: I think you misspoke.</p>	<p style="text-align: right;">Page 71</p> <p>1 So it sounds like it was more than just 2 asking who was on the policy. This sounds like the 3 first letter to begin the process to make the change; 4 would you agree with that?</p> <p>5 A. Somebody made an inquiry.</p> <p>6 Q. But more than an inquiry; they also requested 7 information to change?</p> <p>8 A. I don't know.</p> <p>9 Q. And I notice on that October 19th letter, you did 10 receive a copy of the letter?</p> <p>11 A. It says so, yes.</p> <p>12 Q. I know, so that means you don't remember, I know.</p> <p>13 A. I mean, I don't recall, and frankly, do you always get every letter that's cc'd to you?</p> <p>14 Q. No. I told you that I don't read the stuff addressed 15 to me, not only cc'd to me.</p> <p>16 MR. SCHMIDT: That explains a lot of stuff.</p> <p>17 MR. BREDELL: It does. Mr. Schmidt will 18 vouch.</p> <p>19 BY MR. BREDELL:</p> <p>20 Q. When any of this was happening and the letters were 21 coming in, did you ever bump into Gary Lupiloff and 22 ask him, What's going on, Are you switching the 23 policy? Did you ever have any discussions outside of 24 business?</p>
<p style="text-align: right;">Page 70</p> <p>1 MR. BREDELL: Let me start over. I'm just 2 trying to establish a simple proposition. I'm 3 obviously making it complicated.</p> <p>4 MR. SCHMIDT: You're succeeding.</p> <p>5 MR. BREDELL: Thank you.</p> <p>6 BY MR. BREDELL:</p> <p>7 Q. I think I understand that if Mr. Lupiloff kept the 8 policy in his name and made Bill Keene the payor, 9 there would be nothing to prevent Mr. Lupiloff from 10 eliminating Mr. Keene from the policy?</p> <p>11 A. I do not know that.</p> <p>12 Q. But you can't disagree with my statement?</p> <p>13 A. I don't know because I don't know what had to transpire at the Service Center --</p> <p>15 Q. Okay.</p> <p>16 A. -- in that kind of situation.</p> <p>17 Q. All right. And you were shown a letter dated 18 October 19th, and counsel made it sound unusual that a 19 person would inquire about the status of the 20 beneficiary, and it started off: We received your 21 request for beneficiary information.</p> <p>22 And then the next line of that letter says: 23 If you would like to change these designations, please 24 complete the enclosed application and return it in the 25 envelope provided.</p>	<p style="text-align: right;">Page 72</p> <p>1 A. No, but I mean, had I seen that letter, I would have initiated a conversation with him.</p> <p>3 Q. Okay. So your habit would have been to have --</p> <p>4 A. That would be, to me, that would be my typical behavior with anybody, not just Gary but anyone like, Oh, are you planning to do something, and see how I can service them. But I don't recall -- I don't really recall that letter.</p> <p>9 Q. And this policy was taken out in 2006 -- I'm sorry -- 10 2003?</p> <p>11 A. Yeah.</p> <p>12 Q. So the premiums would escalate in 2013?</p> <p>13 A. Well --</p> <p>14 MR. SCHMIDT: It's right in the policy,</p> <p>15 counsel. The schedule is right there, whatever page 16 that is. Page 304.</p> <p>17 BY MR. BREDELL:</p> <p>18 Q. Did you ever give Mr. Keene a copy of the policy?</p> <p>19 A. Did I ever give him a copy?</p> <p>20 Q. Yes.</p> <p>21 A. Not that I'm aware of, no.</p> <p>22 Q. Do you know whether Nationwide sent him a copy of the 23 policy?</p> <p>24 A. I have no idea.</p> <p>25 Q. And so even though Mr. Keene would call you frequently</p>

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<p style="text-align: right;">Page 73</p> <p>1 to find out the status of the policy, it's your 2 testimony that once he began making the payments, 3 those calls went away; he stopped calling you? 4 A. I don't recall him calling as frequently, if at all. 5 I don't recall. 6 Q. So it's possible from the time the change of 7 beneficiary went into effect making Bill Keene the 8 owner of the policy until the time of Gary Lupiloff's 9 death, it's possible you never spoke with Mr. Keene? 10 A. It's very possible. 11 Q. And then I know after -- 12 A. You know, there was -- I did speak with him. I'm 13 sorry. Yes. 14 Q. When was that? 15 A. I don't recall exactly when it was, but he had called 16 asking some questions about Gary's business, which I 17 didn't feel I could share with him -- 18 Q. Oh, okay. 19 A. -- that I was insuring at the time. 20 Q. So it wasn't information you would have gained as an 21 insurance agent; it would have been something you 22 might have known -- 23 A. No. It was about his policies, and I didn't feel he 24 should be privy to information. 25 Q. And then after the death of Mr. Lupiloff and then at</p>	<p style="text-align: right;">Page 75</p> <p>1 A. Okay. 2 Q. Do you have an independent memory that you observed 3 Mr. Lupiloff sign his name but then after that you 4 then signed your name? 5 A. On the one where I signed? 6 Q. Yes. 7 MR. DANZIG: That's the beneficiary form. 8 BY MR. BREDELL: 9 Q. The beneficiary form. 10 A. I witnessed his signature. I saw him -- I shouldn't 11 use that word -- I saw him sign his name, yes. 12 Q. All right. 13 A. Wherever he had to sign his name. 14 MR. BREDELL: All right. That's all I 15 have. Thank you. 16 MR. SCHMIDT: All done? 17 MR. BREDELL: Yes. 18 MR. DANZIG: I just have one or two more 19 just on that matter. 20 RE-EXAMINATION 21 BY MR. DANZIG: 22 Q. He signed his name on the change of beneficiary 23 designation and then you witnessed it? 24 A. I don't recall who signed first. I'm guessing he 25 would have signed first. That would be protocol.</p>
<p style="text-align: right;">Page 74</p> <p>1 the time this litigation was started, I'm assuming you 2 received a lot of calls about those forms, the 3 signature on the forms? 4 A. From whom? 5 Q. Mr. Keene. 6 A. No. 7 Q. You said he called you a bunch -- 8 A. Not about the signatures. 9 Q. I know I called you a couple times, and I apologize if 10 it was -- 11 A. Well, until the attorney part all started, but no. 12 Q. Okay. 13 A. His calls were not about that. 14 Q. Okay. And so those were the -- you said the numerous 15 calls were not about the signature or the beneficiary 16 form? 17 A. I don't recall them being about that. 18 Q. Okay. The one form that you had a question whether 19 you witnessed it versus witnessed it; do you remember 20 that? 21 MR. FISHMAN: Page 5. 22 A. Whether I saw it being signed versus did I witness it 23 legally? 24 BY MR. BREDELL: 25 Q. Yes.</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. That's why I asked it that way. Okay. Now on the 2 contingent owner change of beneficiary, there are two 3 signatures on that document. One is allegedly 4 Lupiloff's and one allegedly is Keene's. 5 A. Okay. 6 Q. Were they in whatever office they were in separately 7 and signing separately, or did they sign together? 8 MR. FISHMAN: Asked and answered but you 9 can answer. 10 MR. DANZIG: I don't think so. 11 MR. FISHMAN: It was. 12 BY MR. DANZIG: 13 Q. Go ahead. 14 A. They each signed but not at the same time in the same 15 presence. 16 Q. And do you recall who signed first? 17 A. I do not but I'm guessing -- I don't know. 18 Q. Would it be standard protocol for the owner changing 19 the ownership status to sign first as opposed to the 20 new owner? 21 A. It would make sense that Gary signed all the paperwork 22 at the same time. 23 Q. And then does it make sense to you that Keene would 24 have come in wherever you were afterward to sign? 25 A. Yes.</p>

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<p style="text-align: right;">Page 77</p> <p>1 Q. Does that strike you as the way it went? 2 A. Yes. 3 Q. And you still don't know where you were at? 4 A. I don't recall where because I had met with Gary on 5 this matter in different places several days, you 6 know. I had presented it to him. We talked about it. 7 I asked him to wait and think about it. So I don't 8 recall where we actually ended up signing it at this 9 point. 10 Q. How many meetings would you say you had with him over 11 these change issues, more than two? 12 A. Maybe three. 13 Q. And phone calls as well? 14 A. Possibly. 15 Q. So you met with him and talked to him over the phone? 16 A. Just, yes, regarding explaining the ramifications. 17 Q. Sounds like an ongoing issue of concern or discussion 18 between you-agent and him-client? 19 A. Taking the time to -- trying to schedule a time to 20 meet to do the actual signature. But also we were 21 talking about other insurances at the same time. 22 Q. Did he ever express reservations about engaging in 23 this -- 24 A. No. 25 Q. -- change?</p>	<p style="text-align: right;">Page 79</p> <p>1 MR. DANZIG: Thank you. 2 BY MR. DANZIG: 3 Q. Did you ever come across that thought? 4 A. I don't think force. I think in the beginning it was 5 a requirement that he needed to have this done, and 6 that's why they came forward with this request. 7 Q. And last question. What made you believe that he was 8 expressing some requirement that he engage in this 9 process? 10 MR. SCHMIDT: When you say "this process", 11 you mean -- 12 MR. DANZIG: The change request. 13 MR. SCHMIDT: She didn't say anything about 14 the change. You're misstating what she said. 15 A. Oh, no, no. I meant taking out the initial policy, 16 that it was something that was required as a matter of 17 the loan, but there was never -- I never had a sense 18 of any force. 19 BY MR. DANZIG: 20 Q. Did you get a sense that he was dragging his feet for 21 any reason, Mr. Lupiloff? 22 A. That he didn't care to -- he didn't want to keep 23 paying it. It was just something he didn't want to 24 pay. 25 MR. DANZIG: Okay. Thank you.</p>
<p style="text-align: right;">Page 78</p> <p>1 A. No. 2 Q. Never? 3 A. No. 4 Q. Did he ever express reservations about changing the 5 contingent beneficiary from his daughters? 6 A. No. 7 Q. Did he ever express to you concerns about Mr. Keene? 8 A. No. 9 Q. Did he ever tell you he was scared of him? 10 A. He did not. 11 Q. Did he ever tell you that he was worried about what 12 might happen to him with regards to this policy? 13 A. No. 14 Q. He expressed no concerns, no reservations, no thoughts 15 to you as a friend or agent about the relationship he 16 had with Mr. Keene vis-à-vis this insurance policy? 17 A. No. He implied it was just -- it was an 18 inconvenience. It was something that he had to do, 19 and he didn't really want to do it, obviously dragged 20 his feet on payments. 21 Q. Did he ever make it sound like Mr. Keene was forcing 22 this issue on him? 23 MR. BREDELL: These are all beyond the 24 scope of Cross. You had your chance to examine this 25 witness, so I object to it.</p>	<p style="text-align: right;">Page 80</p> <p>1 RE-EXAMINATION 2 BY MR. BREDELL: 3 Q. In your business do you use the term "informed 4 consent"?</p> <p>5 Let me explain what I mean by that word. I 6 have clients who make a lot of decisions that may 7 affect their future rights, you know, like signing off 8 on benefits or certain things, and I look at it as 9 part of my job is to make sure that the client -- I 10 assume they're all adults, some of them are 11 intelligent, assuming Gary was, and so I see my job as 12 explaining the ramifications and letting them make an 13 informed decision. It's not really my place to make a 14 decision for them or tell them what's best for them. 15 And so I'm assuming in these meetings that 16 you had, you saw it as your job was to make Gary aware 17 of all the ramifications of his decision, and then if 18 he still wanted to do it, he was your client, he was 19 paying the policy, he was a grown man, it was up to 20 him, and so that's what I call informed consent, 21 making someone aware of the ramifications so they can 22 make an informed decision in knowing all the 23 ramifications. Do you think that's what you did? 24 A. I think that's what I've expressed, yes. 25 MR. BREDELL: Okay. That's what I thought,</p>

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1 too. Thank you. 2 MR. SCHMIDT: All set? 3 MR. BREDELL: Yes. 4 (The deposition was concluded at 4:47 p.m. 5 Signature of the witness was not requested by 6 counsel for the respective parties hereto.) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 81
1 CERTIFICATE OF NOTARY 2 STATE OF MICHIGAN) 3) SS 4 COUNTY OF MACOMB) 5 6 I, LEZLIE A. SETCHELL, certify that this 7 deposition was taken before me on the date 8 hereinbefore set forth; that the foregoing questions 9 and answers were recorded by me stenographically and 10 reduced to computer transcription; that this is a 11 true, full and correct transcript of my stenographic 12 notes so taken; and that I am not related to, nor of 13 counsel to, either party nor interested in the event 14 of this cause. 15 16 17 18 19 20 21 22 LEZLIE A. SETCHELL, CSR-2404 23 Notary Public, 24 Macomb County, Michigan. 25 My Commission expires: April 17, 2012	Page 82

CERTIFICATE OF NOTARY

STATE OF MICHIGAN)

) SS

COUNTY OF MACOMB)

I, LEZLIE A. SETCHELL, certify that this deposition was taken before me on the date hereinbefore set forth; that the foregoing questions and answers were recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to, either party nor interested in the event of this cause.



LEZLIE A. SETCHELL, CSR-2404

Notary Public,

Macomb County, Michigan

My Commission expires: April 17, 2012

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